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SUBJECT: FCN Treaty. Informal discussions. Embassy despatch 18, May 6, Enclosure No. 2.

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ARTICLE XIV. With reference to the Japanese proposed balance-of-payments reservation set forth on the top of page 2 of enclosure 2, the Department has previously indicated its belief that any such reservation should be applicable only to Article XIV. The Department's counterproposal, in light of this consideration, is as follows:

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"Notwithstanding the provisions of paragraphs 2 and 3(b) of the present Article, a Party may impose quantitative restrictions on importation and exportation of goods that have effect equivalent to, or which are necessary to make effective, exchange restrictions applied pursuant to Article XII. However, such restrictions shall depart no more than necessary from the aforesaid paragraphs and shall be conformable with a policy designed to promote the maximum development of non-discriminatory foreign trade and to expedite the attainment both of a balance-of-payments position and of monetary reserves which will obviate the necessity of such restrictions."

The Department suggests that this be added to Article XIV, as new paragraph 7; and it has been phrased with that end in view. Formerly this sort of provision has been carried in the Protocol; but it is a sufficiently major qualification of Article XIV, and has now become sufficiently normal in treaties, to warrant placing it integrally in the Article to which it relates, and thus avoid an undue lengthening of the Protocol.

ACHESON

DEPARTMENT OF STATE
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JUN 12 1951
TREATY BRANCH
OFFICE OF THE LEGAL ADVISER

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